



MASSACHUSETTS

PLANNING BOARD

MEETING MINUTES
SEPTEMBER 29, 1980
8:00 PM., DPW FACILITY

PRESENT Mrs. Bayne (Chairwoman); members, Mr. Weare, Mr. Becklean, Mr. Phillips, Ms. McCarthy; Planning Administrator, Mr. Dufresne; Mr. Grolnic, Ms. Douglas, Ms. Lopez, Mr. Cross, Mr. O'Grady, Mr. Pappone of Goldstein and Manello, Mr. Edwin Taipale of D'Agostine and Kadison, Ms. Hilton, Mr. and Mrs. Ullman, Mr. Nolan, Mr. Brook, Mr. Harper, Mr. Flood, Mrs. Maxwell, Mrs. Olschewski, Mrs. Tear, Mr. Grinnell, Mr. Cushing.

MEETING OPENED 8:05 PM

MINUTES Voted to approve the minutes of September 22, 1980 as amended.
MOVED by Mr. Phillips, second by Mrs. Bayne, all members in favor.

BRIARBROOK VILLAGE SOUTH SUBDIVISION CONFERENCE

Representatives of Keystone Associates and Briarbrook Village South were present to explain the current status of the Briarbrook South Subdivision plan. Mr. Pappone, legal representative for Keystone Associates, stated that Home Federal Savings and Loan Bank of Worcester had taken over the corporation's assets in late May of 1979. In response Keystone Associates had recently filed (July 16, 1980) for voluntary bankruptcy. Mr. Pappone also explained that the Home Federal Savings Bank was operating under federal court jurisdiction resulting from some of the bank's past management practices. In fact, the greater portion of the bank's top management has been replaced by new personnel over the past year in response to the federal investigation. The Planning Board explained that its main concern was the zoning protection period which would be extended thru 1985 assuming the plan is endorsed this year. The Board explained that it does not feel that Chapter 41 and Chapter 40A intend that zoning protections be extended beyond the statutory limitations, except as provided by statutory appeals to the Superior Court. Mrs. Bayne asked for a reasonable estimate as to when action on the subdivision can resume. Mr. O'Grady answered that work could begin no sooner than spring 1981 at the site. Mr. O'Grady added that the conditions should be complied with by the time the land comes out of Chapter 11's jurisdiction. Mr. O'Grady said that he would keep the Planning Board informed on future developments on this matter.

MEETING RECESSED 9:29 PM
PUBLIC HEARING: HELICOPTER BY-LAW
MEETING RESUMED 10:40 PM

ANR PLAN

MR. Dunphy presented ANR plan 2751 to the Board along with several other plans which he felt were similar. Mr. Dunphy questioned whether the Board had changed their rules and regulations or their philosophy as their reaction to ANR 2751 was not similar to action taken on the other plans which Mr. Dunphy felt were analogous. Mrs. Bayne explained that ANR plans require decisions as to whether or not a plan shows a subdivision. Mrs. Bayne stated that the first ANR submitted, # 2687, didn't show a subdivision, but that ANR # 2751 did. Mrs. Bayne asked the reason why the plan should not be subject to subdivision rules and regulations. Mr. Dunphy answered that the common drive would not be the Town's responsibility and there would be no public rights to it, it would be a private way.

Mr. Coleman stated that he recalled no statement to the effect that this plan might not be approved because it constitutes a subdivision when he first submitted the original ANR plan # 2687 last January. Mr. Coleman claimed that at the time ANR # 2687 was discussed with the Board, the Board was informed that such a common drive was to be built. Mr. Coleman also claimed that the Board at that time did not inform him of any objections to the construction of such a common driveway. Mr. Smith also said that he discussed the common drive with Mr. Coleman prior to purchasing the land shown on the plan with the understanding that the common drive was an acceptable concept to the Planning Board since they had registered no negative opinion on the proposal. Mr. Becklean and Mrs. Bayne pointed out that there was no basis for refusal of the first plan, but that this second plan appeared to show a subdivision road. Mr. Becklean stated it was unfortunate that this problem had to arise concerning this parcel, but that until very recently he was not aware of any legal mechanisms available to the Board to require that the planning and construction of these "common drives" be supervised by the Planning Board. Mr. Becklean said that he had until recently felt totally powerless to control unreasonable development which should have been done under subdivision control, but which were carried out under the statutory provisions governing ANR plans as understood by the Planning Board. A discussion followed as to what constitutes a subdivision. Mr. Smith argued that had he known that this problem was going to delay construction, he would have submitted a subdivision plan. Mrs. Bayne then asked Mr. Smith if he would be agreeable to allowing the Board some time to research this case more thoroughly. Mr. Smith said that he had no objection to this waiting period if it were a short one. Mrs. Bayne promised action by the October 6, 1980 meeting. Mr. Smith added that should the Board refuse to endorse the plan, he could have the plan recorded under a Section 81-X provision. Mr. Dufresne informed him that an 81-X recording was based on a certification that no new ways were being created and that the plan in question did, in the opinion of the Board, show the creation of a new way.

MINUTES, SEPTEMBER 29, 1980

page 3

MEETING ADJOURNED: 12:15 PM

Respectfully submitted,



William R. Becklean
Clerk

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HEARING OPENED 9:30 PM

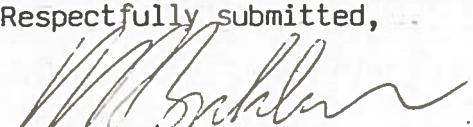
Mrs. Bayne read the legal notice, noting that it had been duly advertised. Copies of both the original and revised by-law were handed out to those present. Mr. Dufresne explained that the by-law was written in response to the increased public concerns over the use of helicopters by business and industry in Acton.

The meeting was opened to Planning Board members and the Board of Appeals for discussion. Mr. Flood questioned whether the Board of Appeals or any Town Board is qualified to make judgements in terms of adequate filing with the Federal Aviation Association and noise levels. Mr. Dufresne stated that the FAA requires thorough documentation before approval for a helipad permit is given.

The public hearing was then open to the public for discussion. Mrs. Tear asked if the Board had been pressured into writing this by-law. Mr. Dufresne answered that the Selectmen had the opinion that such a by-law should be addressed, but that no pressure was involved. Mrs. Tear thought that most residents of Acton would probably be in favor of prohibiting helicopters entirely. Mr. Flood answered that such a motion could be made by the residents at Town Meeting to disallow all helicopter use. Mr. Phillips stated that business and industries have alternatives if such a use is prohibited, such as Stow Airport. Mrs. Olschewski agreed that these alternatives are viable and that prohibition of helicopter landing and taking-off should be promoted.

HEARING ADJOURNED 10:40 PM

Respectfully submitted,


William R. Becklean
Clerk

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